

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

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**GRAYSON-BEY,**

Plaintiff,

v.

Case No. 19-cv-13588-NGE-DRG

Hon. Nancy G. Edmunds

Mag. Judge David R. Grand

**SOUTHFIELD POLICE DEPARTMENT,  
OFFICER MICHAEL WOJCIECHOWSKI,  
OFFICER DAVID MOORE, and OFFICER  
SWADE FOX,**

Defendants.

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**GRAYSON-BEY**

*Plaintiff, Pro Se*

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**REPLY IN SUPPORT OF**  
**DEFENDANTS' MOTION FOR JUDGMENT ON THE PLEADINGS**

**A. Plaintiff cannot represent the interests of others.**

The claims asserted by Plaintiff on behalf of others should be dismissed. Claims asserted in a § 1983 action are personal to the injured party. *Shepard v. Wellman*, 313 F.3d 963, 970 (6th Cir. 2003). An individual proceeding pro se may not appear on behalf of another person, even their own minor children. *Iannaccone v. Law*, 142 F.3d 553, 558 (2d Cir. 1998). Plaintiff states that he is seeking damages on behalf of himself, his son (Ameer Grayson), and his son's mother (Assiyah Fateen). [ECF No. 21, Page.ID 137-39]. However, Plaintiff is proceeding pro se, without an attorney. [ECF No. 1, Page.ID 6]. Accordingly, any claims made on behalf Ameer Grayson, Assiyah Fateen, or anyone else other than Plaintiff should be dismissed.

**B. Plaintiff has failed to demonstrate a plausible claim for relief**

Plaintiff's response fails to show that he has alleged facts which if true, establish that the traffic stop, and his subsequent arrest were unlawful. The allegations of a complaint "must do more than create speculation or suspicion of a legally cognizable cause of action; they must show entitlement to relief." *League of United Latin Am. Citizens v. Bredesen*, 500 F.3d 523, 527 (6th Cir. 2007). Although pro se litigants are afforded some leniency, the Court is

not required to “create a claim which [a plaintiff] has not spelled out in his pleading.” *Clark v. Nat'l Travelers Life Ins. Co.*, 518 F.2d 1167, 1169 (6th Cir. 1975).

***1. Plaintiff has failed to allege a lack of reasonable suspicion for the stop***

The Fourth Amendment requires that a traffic stop “not be ‘unreasonable’ under the circumstances.” *Whren v. U.S.*, 517 U.S. 806, 810 (1996). A police officer may stop a car when they have reasonable suspicion of an ongoing crime or a completed felony, or probable cause to believe that a civil traffic violation has been committed. *Hoover v. Walsh*, 682 F.3d 481, 493 (6th Cir. 2012). Fleeing and eluding is a crime. Mich. Comp. Laws Ann. § 257.602a.

In his response, Plaintiff argues that “the facts I stated in this case are there to see that for there to be probable cause a crime must be committed. . . .” [ECF No. 21, Page. ID 136]. And “I Grayson-Bey was taken against my will with no probable cause.” [ECF No. 21, Page.ID 137]. However, nowhere in the Complaint nor Plaintiffs’ response to the motion does he allege that there was a lack of reasonable suspicion for the traffic stop. Rather, his

Complaint is consistent with reasonable suspicion because Plaintiff admits he was “accused of flee [sic] and eluding.” [ECF No. 1, Page.ID 8].

***2. Plaintiff has failed to allege a lack of probable cause for his arrest***

Under Michigan law, an officer may make a warrantless arrest of a person suspected of committing a misdemeanor or a felony offense. Mich. Comp. Laws § 764.15. Operation of a motor vehicle without the required license is a misdemeanor. Mich. Comp. Laws § 257.904(1), (3). Furnishing false or fictitious written information to an officer is a misdemeanor offense. MCL 257.324(1)(h). Failing to display a driver’s license when requested by an officer is a misdemeanor offense. Mich. Comp. Laws § 257.311. And finally, a knowing failure to comply with an officer’s lawful command is a felony. Mich. Comp. Laws § 750.81d, 750.479. Michigan Courts have concluded that an officer has probable cause to believe that a crime has been committed where a suspect obstructs a traffic stop by withholding their identification. See, e.g. *People v. Heldt*, No. 236842, 2003 WL 21464816, at \*4 (Mich. Ct. App. June 24, 2003)[attached as Exhibit 6]; *People v. Kopp*, No. 232165, 2002 WL 31058350, at \*2 (Mich. Ct. App. Sept. 13, 2002)[attached as Exhibit 7].

Here, Plaintiff acknowledges that he was the operator of a motor vehicle. [ECF No. 1 PageID.5]. Plaintiff also acknowledges that Officer Fox asked him to produce his identification or driver's license during the stop. [ECF No. 1 PageID.5]. Instead of providing his driver's license or a valid identification card, Plaintiff admits that he provided Officer Fox with a "Moors travelers' card." [ECF No. 1, Page ID.5].

Plaintiff's failure to produce his driver's license or identification constituted violations of Mich. Comp. Laws § 257.904(1)-(3), Mich. Comp. Laws § 257.311, and Mich. Comp. Laws § 257.324(1)(h), which are misdemeanor offenses. Plaintiff's failure to produce his driver's license or identification also constituted violations of Mich. Comp. Laws § 750.81d and Mich. Comp. Laws § 750.479, which are felony offenses. As in *Heldt* and *Kopp*, Plaintiff's allegations are consistent with probable cause. Accordingly, Plaintiff has failed to state a plausible claim for relief and his Complaint should be dismissed.

**C. Plaintiff's cited cases do not support his claims**

None of Plaintiffs cited cases provide a basis to deny Defendants' motion. Plaintiff relies on *Howlett By & Through Howlett v. Rose*, 496 U.S. 356 (1990). But that case simply held that states cannot make a per se rule against hearing Section 1983 claims, to deter frivolous litigation in state courts. *Id.* at 380-81. Next, Plaintiff cites *Owen v. City of Indep., Mo.*, 445 U.S. 622 (1980). That case simply repeated the well-established principle that municipalities can be held liable under Section 1983 only when a plaintiff establishes an injury because of a municipality's policy or custom. *Id.* at 623. Finally, Plaintiff relies on *Sherar v. Cullen*, 481 F.2d 945 (9th Cir. 1973). However, the court in that case held that an IRS agent could not be terminated until there had been a judicial determination as to the reasonableness of a request to audit his personal finances. *Id.* at 946-48. None of those cases lend support to Plaintiff's Complaint, or his opposition to Defendants' motion.

**RELIEF REQUESTED**

WHEREFORE, Defendants ask this Court to grant their Motion for Judgment on the Pleadings and dismiss the Plaintiff's Complaint in its entirety.

Respectfully submitted,

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Dated: September 28, 2020

### PROOF OF SERVICE

I hereby certify that on **Monday, September 28, 2020**, I electronically filed the foregoing document and this Proof of Service with the Clerk of the court using the ECF system, and served a copy on Plaintiff via First Class Mail and email at the addresses listed in the caption.

/s/ David D. Burress

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